

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Cynthia Reid,

Plaintiff,

vs.

Michael J. Astrue, Commissioner of
Social Security,

Defendant.

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C/A No. 6:10-2118-MBS

OPINION AND ORDER

Plaintiff Cynthia Reid filed the within action on August 18, 2010, seeking judicial review of a final decision of Defendant Commissioner of Social Security denying Plaintiff's application for disability insurance benefits.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Kevin F. McDonald for pretrial handling. On February 8, 2012, the Magistrate Judge issued a Report and Recommendation in which he determined that (1) the ALJ failed to properly consider the opinion of Dr. DeGarmo, Plaintiff's primary treating physician; (2) the ALJ erroneously failed to provide his reasoning for his residual function capacity determination; (3) the ALJ failed to properly question the vocational expert or to explain any weight given to the sworn statement of Benson Hecker, a certified vocational expert; and (4) the Appeal Council erroneously failed to take into account an opinion submitted by Dr. McGuirt, another of Plaintiff's treating physicians. Accordingly, the Magistrate Judge recommended that the Commissioner's decision be reversed under sentence four of 42 U.S.C. § 405(g), with a remand of the cause to the Commissioner for further proceedings. Plaintiff filed no objections to the Report and

Recommendation. On February 27, 2012, the Commissioner filed a Notice of Not Filing Objections to the Report and Recommendation of Magistrate Judge.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has carefully reviewed the record and concurs in the recommendation of the Magistrate Judge. The court adopts the Report and Recommendation and incorporates it herein by reference. The decision of the Commissioner is **reversed** under sentence four of 42 U.S.C. § 405(g), with a remand of the cause to the Commissioner for further proceedings consistent with this Order and the Report and Recommendation.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Chief United States District Judge

Columbia, South Carolina
February 29, 2012.